

IN THE DRAWINGS:

Please replace the drawing sheets with the attached replacement drawing sheets.

REMARKS

This application has been reviewed in light of the Office Action mailed on May 7, 2007. Claims 1-20 are pending in the application with Claims 1 and 18 being in independent form. By the present amendment, Claims 1, 2, 4, 11 and 18 have been amended and Claims 20-22 have been added.

In the Office Action, the drawings were objected to because figure labels and element numbers are handwritten. Replacement sheets for the drawings are being submitted herewith for all the drawing sheets. Accordingly, withdrawal of the objection is respectfully requested.

Claim 4 was objected to. Claim 4 was corrected as suggested by the Examiner. Accordingly, withdrawal of the objection is respectfully requested.

Claim 11 was rejected under 35 U.S.C. Section 112, first paragraph. Claim 11 has been amended to provide proper antecedent basis and to remove the words “preferably” and “optionally.” Accordingly, withdrawal of the rejection is respectfully requested.

Claims 1-19 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over amended Claims 1-3, 5-19 and 21 of copending U.S. Application Serial No. 10/399,664. It is respectfully requested that the Examiner review this rejection and consider the withdrawal thereof in light of the amendments presented herein, especially, the amendments to pending independent Claims 1 and 18.

Claims 1-19 were rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 5,873,873 issued to Smith et al. Smith et al. is directed to an ultrasonic surgical clamp coagulator apparatus that is configured to effect cutting, coagulation, and

clamping of tissue by cooperation of a clamping mechanism of the apparatus with an associated ultrasonic end-effector at a distal end. The Smith et al. apparatus propagates longitudinal waves of ultrasonic energy to vibrate an acoustic assembly of the apparatus at a selected frequency. The end-effector at the distal end of the waveguide is placed in contact with tissue of the patient to transfer the ultrasonic energy to the tissue. A surgical tool is utilized to press the tissue against the end-effector to cause cutting and coagulating of the tissue. There is no teaching or suggestion that the apparatus disclosed by Smith et al. propagates or transmits torsional ultrasonic vibrations as set forth by the recitations of Applicants' independent Claims 1 and 18.

Specifically, Applicants' independent Claim 1 recites "A surgical tool capable of transmitting torsional ultrasonic vibrations, said surgical tool comprising longitudinally extending guide means defining a longitudinal axis of said tool, a first jaw member at a distal end thereof, a longitudinally extending carrier means rotatable about said guide means, a second jaw member mounted pivotably to a distal end of said carrier means, and outer shroud means including operating means for said second jaw member whereby rotation of said carrier means acts on the operating means to cause pivoting of said second jaw member into and out of operative relationship with said first jaw member." (Emphasis added)

Applicants' independent Claim 18 recites "A surgical tool capable of transmitting torsional ultrasonic vibrations, said surgical tool, said surgical tool comprising a longitudinally extending first guide member having a first jaw member at a distal end thereof, a second jaw member movable into and out of operative relationship with the first jaw member

and carrier means and operating means for the second jaw member so adapted that the second jaw member follows a three dimensional path when so moved.” (Emphasis added)

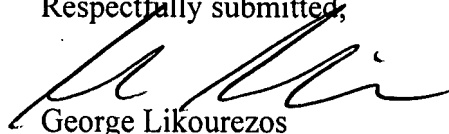
Accordingly, since there is no teaching or suggestion that the apparatus disclosed by Smith et al. propagates or transmits torsional ultrasonic vibrations as set forth by the recitations of Applicants’ independent Claims 1 and 18, Applicants’ independent Claims 1 and 18 are patentable over Smith et al. Hence, withdrawal of the rejection under 35 U.S.C. Section 102(b) with respect to independent Claims 1 and 18 is respectfully requested.

Dependent Claims 2-17 and 19 depend from independent Claims 1 and 18, respectively, and therefore contain the limitations of independent Claims 1 and 18. Therefore, for at least the same reasons given for independent Claims 1 and 18, withdrawal of the rejection under 35 U.S.C. Section 102(b) with respect to dependent Claims 2-17 and 19 is respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application and not previously withdrawn, namely, Claims 1-22, are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicants' undersigned attorney at (631) 501-5706.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Likourezos', is written over the typed name.

George Likourezos

Reg. No. 40,067

Attorney for Applicants

Send Correspondence To:

Carter, DeLuca, Farrell & Schmidt, LLP

George Likourezos, Esq.

445 Broad Hollow Road

Melville, New York 11747

631-501-5706

FAX: 631-501-3526